

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**APPLETON PAPERS, INC. and
NCR CORPORATION,**

Plaintiffs,

v.

**GEORGE A. WHITING PAPER
COMPANY, et al.,**

Defendants.

PRELIMINARY PRETRIAL CONFERENCE

Case No. 08-C-16

HONORABLE WILLIAM C. GRIESBACH, presiding
Deputy Clerk: Mary
Proceeding Held: July 30, 2009

Tape: 073009
Hearing Began: 9:47 a.m.
Hearing Ended: 12:02 p.m.

Appearances:

Plaintiffs: See attached seating chart

Defendants: See attached seating chart

9:47 a.m. Case is called.
9:47 a.m. Lead counsel give appearances.
9:48 a.m. Court addresses de minimus settling parties regarding proposed consent decree.
9:49 a.m. Atty. Hermes responds, plaintiffs will oppose consent decree.
9:50 a.m. Atty. Maynard replies.
9:51 a.m. Atty. Spector replies.
9:53 a.m. Atty. Maynard replies.
9:54 a.m. Atty. Levin addresses the court regarding Phase 1 and the government's role.
9:57 a.m. Court addresses government's role as a party and date for expert report is August 7, as parties have agreed.
9:58 a.m. Atty. Levin responds.
9:58 a.m. Court addresses motion deadline.
9:58 a.m. Atty. Levin inquires as to motion.
9:59 a.m. The Court responds that if it is a threshold motion that would dismiss the party from the case, that it is a proper motion for the dispositive motion deadline.
9:59 a.m. Atty. Warpinski addresses the court on motion for clarification on their role in Phase 1.
9:59 a.m. The Court states if a party does not have role or feels interest is not at stake they do not need to appear at Phase 1.
10:01 a.m. Atty. Warpinski responds.
10:02 a.m. Court addresses contribution. Parties must make decision individually as to involvement.
10:03 a.m. Atty. Warpinski responds.
10:04 a.m. Court asks if any other party has any comment on Atty. Warpinski's request.
10:04 a.m. Atty. Hermes states no comment.

10:04 a.m. The Court addresses whether volume of PCBs is an issue in this case.
10:04 a.m. Atty. Mandelbaum addresses the issue.
10:07 a.m. Atty. Roach responds.
10:10 a.m. Court addresses volume and expects general testimony by experts on volume in Phase 1.
10:13 a.m. Atty. Mandelbaum replies.
10:13 a.m. Atty. Hermes responds.
10:14 a.m. Court states some of this will have to be addressed in context at the trial.
10:15 a.m. Atty. Levin replies.
10:16 a.m. Court states this issue may merit motion practice.
10:18 a.m. Atty. Levin replies.
10:18 a.m. Atty. Roach responds.
10:18 a.m. The Court states it wants to make clear that it is not opening discovery and that would go beyond what Phase 1 was intended to accomplish.
10:18 a.m. Atty. Roach responds.
10:20 a.m. Court addresses Burlington Northern issue.
10:24 a.m. Atty. Hermes defers to Atty. Ragatz to respond on this issue.
10:24 a.m. Atty. Ragatz addresses arranger liability. Court makes inquiries.
10:30 a.m. Atty. Mandelbaum responds. Court makes inquiries.
10:33 a.m. Atty. Ragatz replies.
10:38 a.m. Atty. Mandelbaum responds.
10:39 a.m. Atty. Spector responds.
10:40 a.m. Court addresses this as an issue that may need motion practice to resolve. The Court addresses that this trial will be taking place in Milwaukee.
10:42 a.m. Atty. Gass requests photographing of courtroom. The Court will make inquiries into this request and into getting electronic courtroom.
10:43 a.m. Atty. Hermes estimates trial length 6- 8 weeks.
10:44 a.m. Atty. Mandelbaum responds may be longer.
10:47 a.m. Court estimates 8 - 12 week trial. After the court does further inquiry it will be entered on the docket if parties have permission to photograph courtrooms.
10:49 a.m. Atty. Mandelbaum anticipates at least one joint motion, not sure on number of individual defense motions.
10:49 a.m. Atty. Levin indicates there will be a motion filed, not sure if they will be the movant.
10:50 a.m. Atty. Mandelbaum requests moving motion deadline for two weeks.
10:50 a.m. Atty. Roach indicates plaintiffs have objected.
10:51 a.m. Atty. Hermes objects.
10:51 a.m. The Court denies request to move motion deadline.
10:51 a.m. Atty. Gass inquires as to trial times.
10:52 a.m. The Court states the trial will start at 8:30 a.m. and go until 5:00 p.m. The Court may reserve Fridays for other matters.
10:53 a.m. Atty. Gass inquires as to holidays.
10:54 a.m. The Court typically takes off the week between Christmas and New Years.
10:54 a.m. Atty. Hermes addresses the needs of witnesses also.
10:54 a.m. The Court asks the parties to reach an agreement on the holiday schedule.
10:55 a.m. The Court addresses the motions to compel.
10:55 a.m. Atty. Getto addresses the motions to compel and provides a company flow chart to the Court. The Court makes inquiries.
11:07 a.m. Atty. Hermes responds. The Court makes inquiries.
11:17 a.m. Atty. Getto replies.

11:19 a.m. Atty. Hermes responds.
11:20 a.m. Atty. Getto replies.
11:22 a.m. Atty. Hermes responds.
11:23 a.m. Atty. Getto replies.
11:23 a.m. Atty. Hermes responds.
11:24 a.m. Atty. Getto replies.
11:26 a.m. Atty. Hermes responds.
11:26 a.m. The Court will take under consideration and issue a decision possibly before the end of this week.
11:27 a.m. The Court addresses NewPage's motion for extension of time to file expert report.
11:27 a.m. Atty. Roach objects to motion.
11:28 a.m. Atty. Murray replies.
11:30 a.m. Atty. Roach responds.
11:30 a.m. Atty. Murray replies.
11:30 a.m. Parties reach agreement and can notify the Court if needs to be revisited.
11:30 a.m. The Court addresses NewPage's motion to take limited depositions and refers to document.
11:30 a.m. Atty. Murray addresses motion and mention of mystery document.
11:31 a.m. Atty. Roach responds and has not had opportunity to review motion.
11:31 a.m. Atty. Murray will speak to opposing counsel and try to resolve matter. Court makes inquiries.
11:37 a.m. Atty. Roach responds.
11:38 a.m. Atty. Hermes responds. Court makes inquiries.
11:40 a.m. Atty. Murray replies. Court makes inquiries.
11:42 a.m. Court denies motion as to taking 30b6 depositions. Counsel should confer regarding the mystery document.
11:43 a.m. Atty. Murray replies.
11:44 a.m. The Court reserves ruling on deposition of Mr. Hultgren.
11:44 a.m. Atty. Murray replies.
11:44 a.m. The Court states these rulings only apply to Phase 1.
11:45 a.m. Atty. Mandelbaum addresses depositions.
11:46 a.m. Atty. Roach responds they will work with defendants on scheduling depositions.
11:46 a.m. Atty. Mandelbaum replies and requests deposition notice be modified to 10 days.
11:47 a.m. The Court grants request and modifies notice for deposition to 10 days.
11:47 a.m. Atty. Mandelbaum addresses the issue of Order of Proof.
11:50 a.m. Atty. Roach responds.
11:51 a.m. Court maintains Order of Proof.
11:51 a.m. Atty. Levin requests the Government and Menasha propose a plan that integrates with the Court's scheduling.
11:51 a.m. Atty. Hunsucker agrees.
11:51 a.m. The Court grants request.
11:52 a.m. Atty. Mulligan requests presenting electronic exhibits to the Court for trial.
11:53 a.m. Atty. Roach has no objection.
11:54 a.m. Atty. Mulligan requests real time reporting of the trial and daily copy and requests filing of electronic briefs.
11:54 a.m. The Court is agreeable to requests.
11:54 a.m. Atty. Gass recommends using same court reporter who was at depositions.
11:55 a.m. Atty. Mulligan states satisfaction with court reporter used in depositions.
11:55 a.m. Atty. Gass identifies as Gramann Reporting from Milwaukee.
11:55 a.m. Atty. Roach would like to consult with client regarding expense of real time reporting.

11:55 a.m. The Court will do further inquiry as to the court reporting.
11:56 a.m. Atty. Mulligan requests deviation from local rules for purposes of using same numbering of exhibits from deposition for the trial.
11:57 a.m. Court grants request.
11:57 a.m. Atty. Mulligan addresses pretrial/post-trial submissions.
11:57 a.m. Atty. Hermes responds, prefers documents be submitted by 11/2.
11:58 a.m. The Court states if parties are in agreement they should submit a proposed order.
11:59 a.m. Atty. Roach inquires as to deposition testimony at trial.
11:59 a.m. The Court prefers not to take live court time on depositions.
11:59 a.m. Atty. Mandelbaum inquires as to identification of witnesses.
11:59 a.m. The Court want parties to let it know at least one day ahead the order of witnesses.
12:00 p.m. Atty. Roach responds that they will work this out.
12:00 p.m. The Court addresses division of trial time between parties.
12:01 p.m. Atty. Mandelbaum responds.
12:01 p.m. Atty. Hermes responds.
12:02 p.m. The Court will revisit the issue later if needed.
12:02 p.m. Court adjourns.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
Appleton Papers, Inc., et al. v. George Whiting Paper Co., et al.
Case No. 08-C-16

7	6	5	4	3	2	1
Marc Davies PH Glatfelter Ballard Spahr	Monique Mooney PH Glatfelter Ballard Spahr	Steven Bogart US Paper Mills Reinhart Boerner	Thomas Gottshall US Paper Mills Haynsworth Sinkler	Waltraud Arts City of Appleton Anderson & Kent	Nancy Peterson WTM I Co Quarles & Brady	Peter Karegeannes WTM I Co Quarles & Brady

Jury Box - Back Row

14	13	12	11	10	9	8
Richard Yde City of De Pere Stafford Rosenbaum	Ian AJ Pitz Brown County Michael Best				Mary Rose Alexander Georgia-Pacific Latham & Watkins	Kyle Lytz Georgia-Pacific Latham & Watkins

Jury Box - Front Row

John Hartje NCR In House Counsel	John Burgess Georgia-Pacific In House Counsel	Jan Conlin Georgia-Pacific Robins Kaplan	Nathan Fishbach Georgia-Pacific Whyte Hirschboeck	Ted Warpinski City of Green Bay Friebert Finerty	Jerry Maynard Procter & Gamble Dykema Gossert	Linda Benfield WPS Foley & Lardner	Heidi Metzler Appleton Papers Hermes Law Ltd.
Elizabeth Miles Neenah-Menasha Davis & Kuelthau	Grame Rattray Heart of the Valley Hinshaw & Culbertson	Matthew Oakes U.S. Dept. of Justice	Joshua Levin U.S. Dept. of Justice	Susan Lovern CBC Coating von Briesen	Michael Carlton CBC Coating von Briesen	Christopher Riordan GB Packaging von Briesen	Anthony Steffek Appleton Papers Hermes Law Ltd.

Audience Area

Jeff Spector U.S. Dept. of Justice	Daniel Murray Newpage Johnson & Bell	Philip Hunsucker Menasha Corp Hunsucker Goodstein
--	--	---

Defendant's Table

Ernest Getto Georgia-Pacific Latham & Watkins	Scott Hansen US Paper Mills Reinhart Boerner	William Mulligan Neenah-Menasha Davis & Kuelthau	David Mandelbaum PH Glatfelter Ballard Spahr
---	--	--	--

Defendant's Table

Ronald Ragatz for Appleton Papers DeWitt Ross	Michael Hermes for Appleton Papers Hermes Law Ltd.	J Ric Gass for NCR Corp Gass Weber	William Conlon for NCR Corp Sidley Austin	Kathleen Roach for NCR Corp Sidley Austin	Evan Westerfield for NCR Corp Sidley Austin
---	--	--	---	---	---

Plaintiff's Table